



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0546

Introduced 2/1/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

See Index

Creates the HIV/AIDS Prevention Program for Department of Corrections Offenders, Significant Others, and Family Members Act. Provides that the Department of Corrections and the Department of Public Health shall jointly develop and implement an HIV/AIDS prevention education program targeted to offenders incarcerated in Department of Corrections facilities, significant others, and family members of adult and juvenile prison inmates. Provides that the Illinois Department of Corrections shall: (1) provide, in all public waiting rooms of detention facilities and prisons, printed information on the transmission and prevention of HIV/AIDS, hepatitis C, and other sexually transmitted diseases and referral information to community-based providers of HIV/AIDS prevention, HIV/AIDS treatment, and HIV/AIDS counseling and testing services throughout Illinois; (2) display in all public waiting rooms of detention facilities and prisons an HIV/AIDS informational video, produced by a national organization with expertise in HIV/AIDS prevention; (3) provide written information on the transmission and prevention of HIV/AIDS, hepatitis C, and other sexually transmitted diseases to all inmates upon entrance to a detention center or prison and offer voluntary HIV/AIDS testing to all inmates; and (4) provide written information on the transmission and prevention of HIV/AIDS, hepatitis C, and other sexually transmitted diseases to all inmates just before their release from custody and referral to appropriate community based organizations that provide HIV/AIDS services and HIV/AIDS counseling and testing. Amends the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB095 05267 RLC 25345 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 HIV/AIDS Prevention Program for Department of Corrections
6 Offenders, Significant Others, and Family Members Act.

7 Section 5. Definition. In this Act, "HIV/AIDS" means the
8 human immunodeficiency virus or any other identified causative
9 agent of acquired immunodeficiency syndrome.

10 Section 10. HIV/AIDS Prevention Program for Department of
11 Corrections Offenders, Significant Others, and Family Members.
12 The Department of Corrections and the Department of Public
13 Health shall jointly develop and implement an HIV/AIDS
14 prevention education program targeted to offenders
15 incarcerated in Department of Corrections facilities,
16 significant others, and family members of adult and juvenile
17 prison inmates. Through this program, the Illinois Department
18 of Corrections shall: (1) provide, in all public waiting rooms
19 of detention facilities and prisons, printed information on the
20 transmission and prevention of HIV/AIDS, hepatitis C, and other
21 sexually transmitted diseases and referral information to
22 community-based providers of HIV/AIDS prevention, HIV/AIDS

1 treatment, and HIV/AIDS counseling and testing services
2 throughout Illinois; (2) display in all public waiting rooms of
3 detention facilities and prisons an HIV/AIDS informational
4 video, produced by a national organization with expertise in
5 HIV/AIDS prevention; (3) provide written information on the
6 transmission and prevention of HIV/AIDS, hepatitis C, and other
7 sexually transmitted diseases to all inmates upon entrance to a
8 detention center or prison and offer voluntary HIV/AIDS testing
9 to all inmates; and (4) provide written information on the
10 transmission and prevention of HIV/AIDS, hepatitis C, and other
11 sexually transmitted diseases to all inmates just before their
12 release from custody and referral to appropriate community
13 based organizations that provide HIV/AIDS services and
14 HIV/AIDS counseling and testing.

15 Section 15. Report to the General Assembly. One year after
16 implementation of this Act, the Illinois Department of
17 Corrections shall report to the General Assembly on the
18 effectiveness of this program in increasing voluntary HIV/AIDS
19 testing.

20 Section 55. The Unified Code of Corrections is amended by
21 changing Sections 3-6-2 and 5-5-3 as follows:

22 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

23 Sec. 3-6-2. Institutions and Facility Administration.

1 (a) Each institution and facility of the Department shall
2 be administered by a chief administrative officer appointed by
3 the Director. A chief administrative officer shall be
4 responsible for all persons assigned to the institution or
5 facility. The chief administrative officer shall administer
6 the programs of the Department for the custody and treatment of
7 such persons.

8 (b) The chief administrative officer shall have such
9 assistants as the Department may assign.

10 (c) The Director or Assistant Director shall have the
11 emergency powers to temporarily transfer individuals without
12 formal procedures to any State, county, municipal or regional
13 correctional or detention institution or facility in the State,
14 subject to the acceptance of such receiving institution or
15 facility, or to designate any reasonably secure place in the
16 State as such an institution or facility and to make transfers
17 thereto. However, transfers made under emergency powers shall
18 be reviewed as soon as practicable under Article 8, and shall
19 be subject to Section 5-905 of the Juvenile Court Act of 1987.
20 This Section shall not apply to transfers to the Department of
21 Human Services which are provided for under Section 3-8-5 or
22 Section 3-10-5.

23 (d) The Department shall provide educational programs for
24 all committed persons so that all persons have an opportunity
25 to attain the achievement level equivalent to the completion of
26 the twelfth grade in the public school system in this State.

1 Other higher levels of attainment shall be encouraged and
2 professional instruction shall be maintained wherever
3 possible. The Department may establish programs of mandatory
4 education and may establish rules and regulations for the
5 administration of such programs. A person committed to the
6 Department who, during the period of his or her incarceration,
7 participates in an educational program provided by or through
8 the Department and through that program is awarded or earns the
9 number of hours of credit required for the award of an
10 associate, baccalaureate, or higher degree from a community
11 college, college, or university located in Illinois shall
12 reimburse the State, through the Department, for the costs
13 incurred by the State in providing that person during his or
14 her incarceration with the education that qualifies him or her
15 for the award of that degree. The costs for which reimbursement
16 is required under this subsection shall be determined and
17 computed by the Department under rules and regulations that it
18 shall establish for that purpose. However, interest at the rate
19 of 6% per annum shall be charged on the balance of those costs
20 from time to time remaining unpaid, from the date of the
21 person's parole, mandatory supervised release, or release
22 constituting a final termination of his or her commitment to
23 the Department until paid.

24 (d-5) A person committed to the Department is entitled to
25 confidential testing for infection with human immunodeficiency
26 virus (HIV) and to counseling in connection with such testing,

1 with no copay to the committed person. A person committed to
2 the Department who has tested positive for infection with HIV
3 is entitled to medical care while incarcerated, counseling, and
4 referrals to support services, in connection with that positive
5 test result. Implementation of this subsection (d-5) is subject
6 to appropriation.

7 (e) A person committed to the Department who becomes in
8 need of medical or surgical treatment but is incapable of
9 giving consent thereto shall receive such medical or surgical
10 treatment by the chief administrative officer consenting on the
11 person's behalf. Before the chief administrative officer
12 consents, he or she shall obtain the advice of one or more
13 physicians licensed to practice medicine in all its branches in
14 this State. If such physician or physicians advise:

15 (1) that immediate medical or surgical treatment is
16 required relative to a condition threatening to cause
17 death, damage or impairment to bodily functions, or
18 disfigurement; and

19 (2) that the person is not capable of giving consent to
20 such treatment; the chief administrative officer may give
21 consent for such medical or surgical treatment, and such
22 consent shall be deemed to be the consent of the person for
23 all purposes, including, but not limited to, the authority
24 of a physician to give such treatment.

25 (e-5) If a physician providing medical care to a committed
26 person on behalf of the Department advises the chief

1 administrative officer that the committed person's mental or
2 physical health has deteriorated as a result of the cessation
3 of ingestion of food or liquid to the point where medical or
4 surgical treatment is required to prevent death, damage, or
5 impairment to bodily functions, the chief administrative
6 officer may authorize such medical or surgical treatment.

7 (f) In the event that the person requires medical care and
8 treatment at a place other than the institution or facility,
9 the person may be removed therefrom under conditions prescribed
10 by the Department. The Department shall require the committed
11 person receiving medical or dental services on a non-emergency
12 basis to pay a \$2 co-payment to the Department for each visit
13 for medical or dental services. The amount of each co-payment
14 shall be deducted from the committed person's individual
15 account. A committed person who has a chronic illness, as
16 defined by Department rules and regulations, shall be exempt
17 from the \$2 co-payment for treatment of the chronic illness. A
18 committed person shall not be subject to a \$2 co-payment for
19 follow-up visits ordered by a physician, who is employed by, or
20 contracts with, the Department. A committed person who is
21 indigent is exempt from the \$2 co-payment and is entitled to
22 receive medical or dental services on the same basis as a
23 committed person who is financially able to afford the
24 co-payment. Notwithstanding any other provision in this
25 subsection (f) to the contrary, any person committed to any
26 facility operated by the Department of Juvenile Justice, as set

1 forth in Section 3-2.5-15 of this Code, is exempt from the
2 co-payment requirement for the duration of confinement in those
3 facilities.

4 (g) Any person having sole custody of a child at the time
5 of commitment or any woman giving birth to a child after her
6 commitment, may arrange through the Department of Children and
7 Family Services for suitable placement of the child outside of
8 the Department of Corrections. The Director of the Department
9 of Corrections may determine that there are special reasons why
10 the child should continue in the custody of the mother until
11 the child is 6 years old.

12 (h) The Department may provide Family Responsibility
13 Services which may consist of, but not be limited to the
14 following:

15 (1) family advocacy counseling;
16 (2) parent self-help group;
17 (3) parenting skills training;
18 (4) parent and child overnight program;
19 (5) parent and child reunification counseling, either
20 separately or together, preceding the inmate's release;
21 and

22 (6) a prerelease reunification staffing involving the
23 family advocate, the inmate and the child's counselor, or
24 both and the inmate.

25 (i) Upon admission of an inmate to an institution or
26 facility of the Department and before release of the inmate, he

1 or she shall be given a physical examination and upon admission
2 and prior ~~Prior~~ to the release of any inmate ~~who has a~~
3 ~~documented history of intravenous drug use, and upon the~~
4 ~~receipt of that inmate's written informed consent,~~ the
5 Department shall provide for the testing of such inmate for
6 infection with human immunodeficiency virus (HIV) and any other
7 identified causative agent of acquired immunodeficiency
8 syndrome (AIDS). The testing provided under this subsection
9 shall consist of an enzyme-linked immunosorbent assay (ELISA)
10 test or such other test as may be approved by the Illinois
11 Department of Public Health. If the test result is positive,
12 the Western Blot Assay or more reliable confirmatory test shall
13 be administered. All inmates tested in accordance with the
14 provisions of this subsection shall be provided with pre-test
15 and post-test counseling. ~~Notwithstanding any provision of~~
16 ~~this subsection to the contrary, the Department shall not be~~
17 ~~required to conduct the testing and counseling required by this~~
18 ~~subsection unless sufficient funds to cover all costs of such~~
19 ~~testing and counseling are appropriated for that purpose by the~~
20 ~~General Assembly.~~

21 (j) Any person convicted of a sex offense as defined in the
22 Sex Offender Management Board Act shall be required to receive
23 a sex offender evaluation prior to release into the community
24 from the Department of Corrections. The sex offender evaluation
25 shall be conducted in conformance with the standards and
26 guidelines developed under the Sex Offender Management Board

1 Act and by an evaluator approved by the Board.

2 (k) Any minor committed to the Department of Juvenile
3 Justice for a sex offense as defined by the Sex Offender
4 Management Board Act shall be required to undergo sex offender
5 treatment by a treatment provider approved by the Board and
6 conducted in conformance with the Sex Offender Management Board
7 Act.

8 (l) Prior to the release of any inmate, the Department must
9 provide the inmate with the option of testing for infection
10 with human immunodeficiency virus (HIV), as well as counseling
11 in connection with such testing, with no copayment for the
12 test. At the same time, the Department shall require each such
13 inmate to sign a form stating that the inmate has been informed
14 of his or her rights with respect to the testing required to be
15 offered under this subsection (l) and providing the inmate with
16 an opportunity to indicate either that he or she wants to be
17 tested or that he or she does not want to be tested. The
18 Department, in consultation with the Department of Public
19 Health, shall prescribe the contents of the form. The testing
20 provided under this subsection (l) shall consist of an
21 enzyme-linked immunosorbent assay (ELISA) test or any other
22 test approved by the Department of Public Health. If the test
23 result is positive, the Western Blot Assay or more reliable
24 confirmatory test shall be administered.

25 Prior to the release of an inmate who the Department knows
26 has tested positive for infection with HIV, the Department in a

1 timely manner shall offer the inmate transitional case
2 management, including referrals to other support services.

3 Implementation of this subsection (1) is subject to
4 appropriation.

5 (Source: P.A. 93-616, eff. 1-1-04; 93-928, eff. 1-1-05; 94-629,
6 eff. 1-1-06; 94-696, eff. 6-1-06.)

7 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

8 (Text of Section before amendment by P.A. 94-1035)

9 Sec. 5-5-3. Disposition.

10 (a) Except as provided in Section 11-501 of the Illinois
11 Vehicle Code, every person convicted of an offense shall be
12 sentenced as provided in this Section.

13 (b) The following options shall be appropriate
14 dispositions, alone or in combination, for all felonies and
15 misdemeanors other than those identified in subsection (c) of
16 this Section:

17 (1) A period of probation.

18 (2) A term of periodic imprisonment.

19 (3) A term of conditional discharge.

20 (4) A term of imprisonment.

21 (5) An order directing the offender to clean up and
22 repair the damage, if the offender was convicted under
23 paragraph (h) of Section 21-1 of the Criminal Code of 1961
24 (now repealed).

25 (6) A fine.

1 (7) An order directing the offender to make restitution
2 to the victim under Section 5-5-6 of this Code.

3 (8) A sentence of participation in a county impact
4 incarceration program under Section 5-8-1.2 of this Code.

5 (9) A term of imprisonment in combination with a term
6 of probation when the offender has been admitted into a
7 drug court program under Section 20 of the Drug Court
8 Treatment Act.

9 Neither a fine nor restitution shall be the sole
10 disposition for a felony and either or both may be imposed only
11 in conjunction with another disposition.

12 (c) (1) When a defendant is found guilty of first degree
13 murder the State may either seek a sentence of imprisonment
14 under Section 5-8-1 of this Code, or where appropriate seek
15 a sentence of death under Section 9-1 of the Criminal Code
16 of 1961.

17 (2) A period of probation, a term of periodic
18 imprisonment or conditional discharge shall not be imposed
19 for the following offenses. The court shall sentence the
20 offender to not less than the minimum term of imprisonment
21 set forth in this Code for the following offenses, and may
22 order a fine or restitution or both in conjunction with
23 such term of imprisonment:

24 (A) First degree murder where the death penalty is
25 not imposed.

26 (B) Attempted first degree murder.

1 (C) A Class X felony.

2 (D) A violation of Section 401.1 or 407 of the
3 Illinois Controlled Substances Act, or a violation of
4 subdivision (c) (1) or (c) (2) of Section 401 of that Act
5 which relates to more than 5 grams of a substance
6 containing heroin or cocaine or an analog thereof.

7 (E) A violation of Section 5.1 or 9 of the Cannabis
8 Control Act.

9 (F) A Class 2 or greater felony if the offender had
10 been convicted of a Class 2 or greater felony within 10
11 years of the date on which the offender committed the
12 offense for which he or she is being sentenced, except
13 as otherwise provided in Section 40-10 of the
14 Alcoholism and Other Drug Abuse and Dependency Act.

15 (F-5) A violation of Section 24-1, 24-1.1, or
16 24-1.6 of the Criminal Code of 1961 for which
17 imprisonment is prescribed in those Sections.

18 (G) Residential burglary, except as otherwise
19 provided in Section 40-10 of the Alcoholism and Other
20 Drug Abuse and Dependency Act.

21 (H) Criminal sexual assault.

22 (I) Aggravated battery of a senior citizen.

23 (J) A forcible felony if the offense was related to
24 the activities of an organized gang.

25 Before July 1, 1994, for the purposes of this
26 paragraph, "organized gang" means an association of 5

1 or more persons, with an established hierarchy, that
2 encourages members of the association to perpetrate
3 crimes or provides support to the members of the
4 association who do commit crimes.

5 Beginning July 1, 1994, for the purposes of this
6 paragraph, "organized gang" has the meaning ascribed
7 to it in Section 10 of the Illinois Streetgang
8 Terrorism Omnibus Prevention Act.

9 (K) Vehicular hijacking.

10 (L) A second or subsequent conviction for the
11 offense of hate crime when the underlying offense upon
12 which the hate crime is based is felony aggravated
13 assault or felony mob action.

14 (M) A second or subsequent conviction for the
15 offense of institutional vandalism if the damage to the
16 property exceeds \$300.

17 (N) A Class 3 felony violation of paragraph (1) of
18 subsection (a) of Section 2 of the Firearm Owners
19 Identification Card Act.

20 (O) A violation of Section 12-6.1 of the Criminal
21 Code of 1961.

22 (P) A violation of paragraph (1), (2), (3), (4),
23 (5), or (7) of subsection (a) of Section 11-20.1 of the
24 Criminal Code of 1961.

25 (Q) A violation of Section 20-1.2 or 20-1.3 of the
26 Criminal Code of 1961.

1 (R) A violation of Section 24-3A of the Criminal
2 Code of 1961.

3 (S) (Blank).

4 (T) A second or subsequent violation of the
5 Methamphetamine Control and Community Protection Act.

6 (3) (Blank).

7 (4) A minimum term of imprisonment of not less than 10
8 consecutive days or 30 days of community service shall be
9 imposed for a violation of paragraph (c) of Section 6-303
10 of the Illinois Vehicle Code.

11 (4.1) (Blank).

12 (4.2) Except as provided in paragraph (4.3) of this
13 subsection (c), a minimum of 100 hours of community service
14 shall be imposed for a second violation of Section 6-303 of
15 the Illinois Vehicle Code.

16 (4.3) A minimum term of imprisonment of 30 days or 300
17 hours of community service, as determined by the court,
18 shall be imposed for a second violation of subsection (c)
19 of Section 6-303 of the Illinois Vehicle Code.

20 (4.4) Except as provided in paragraph (4.5) and
21 paragraph (4.6) of this subsection (c), a minimum term of
22 imprisonment of 30 days or 300 hours of community service,
23 as determined by the court, shall be imposed for a third or
24 subsequent violation of Section 6-303 of the Illinois
25 Vehicle Code.

26 (4.5) A minimum term of imprisonment of 30 days shall

1 be imposed for a third violation of subsection (c) of
2 Section 6-303 of the Illinois Vehicle Code.

3 (4.6) A minimum term of imprisonment of 180 days shall
4 be imposed for a fourth or subsequent violation of
5 subsection (c) of Section 6-303 of the Illinois Vehicle
6 Code.

7 (5) The court may sentence an offender convicted of a
8 business offense or a petty offense or a corporation or
9 unincorporated association convicted of any offense to:

10 (A) a period of conditional discharge;

11 (B) a fine;

12 (C) make restitution to the victim under Section
13 5-5-6 of this Code.

14 (5.1) In addition to any penalties imposed under
15 paragraph (5) of this subsection (c), and except as
16 provided in paragraph (5.2) or (5.3), a person convicted of
17 violating subsection (c) of Section 11-907 of the Illinois
18 Vehicle Code shall have his or her driver's license,
19 permit, or privileges suspended for at least 90 days but
20 not more than one year, if the violation resulted in damage
21 to the property of another person.

22 (5.2) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), and except as
24 provided in paragraph (5.3), a person convicted of
25 violating subsection (c) of Section 11-907 of the Illinois
26 Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for at least 180 days but
2 not more than 2 years, if the violation resulted in injury
3 to another person.

4 (5.3) In addition to any penalties imposed under
5 paragraph (5) of this subsection (c), a person convicted of
6 violating subsection (c) of Section 11-907 of the Illinois
7 Vehicle Code shall have his or her driver's license,
8 permit, or privileges suspended for 2 years, if the
9 violation resulted in the death of another person.

10 (6) In no case shall an offender be eligible for a
11 disposition of probation or conditional discharge for a
12 Class 1 felony committed while he was serving a term of
13 probation or conditional discharge for a felony.

14 (7) When a defendant is adjudged a habitual criminal
15 under Article 33B of the Criminal Code of 1961, the court
16 shall sentence the defendant to a term of natural life
17 imprisonment.

18 (8) When a defendant, over the age of 21 years, is
19 convicted of a Class 1 or Class 2 felony, after having
20 twice been convicted in any state or federal court of an
21 offense that contains the same elements as an offense now
22 classified in Illinois as a Class 2 or greater Class felony
23 and such charges are separately brought and tried and arise
24 out of different series of acts, such defendant shall be
25 sentenced as a Class X offender. This paragraph shall not
26 apply unless (1) the first felony was committed after the

1 effective date of this amendatory Act of 1977; and (2) the
2 second felony was committed after conviction on the first;
3 and (3) the third felony was committed after conviction on
4 the second. A person sentenced as a Class X offender under
5 this paragraph is not eligible to apply for treatment as a
6 condition of probation as provided by Section 40-10 of the
7 Alcoholism and Other Drug Abuse and Dependency Act.

8 (9) A defendant convicted of a second or subsequent
9 offense of ritualized abuse of a child may be sentenced to
10 a term of natural life imprisonment.

11 (10) (Blank).

12 (11) The court shall impose a minimum fine of \$1,000
13 for a first offense and \$2,000 for a second or subsequent
14 offense upon a person convicted of or placed on supervision
15 for battery when the individual harmed was a sports
16 official or coach at any level of competition and the act
17 causing harm to the sports official or coach occurred
18 within an athletic facility or within the immediate
19 vicinity of the athletic facility at which the sports
20 official or coach was an active participant of the athletic
21 contest held at the athletic facility. For the purposes of
22 this paragraph (11), "sports official" means a person at an
23 athletic contest who enforces the rules of the contest,
24 such as an umpire or referee; "athletic facility" means an
25 indoor or outdoor playing field or recreational area where
26 sports activities are conducted; and "coach" means a person

1 recognized as a coach by the sanctioning authority that
2 conducted the sporting event.

3 (12) A person may not receive a disposition of court
4 supervision for a violation of Section 5-16 of the Boat
5 Registration and Safety Act if that person has previously
6 received a disposition of court supervision for a violation
7 of that Section.

8 (d) In any case in which a sentence originally imposed is
9 vacated, the case shall be remanded to the trial court. The
10 trial court shall hold a hearing under Section 5-4-1 of the
11 Unified Code of Corrections which may include evidence of the
12 defendant's life, moral character and occupation during the
13 time since the original sentence was passed. The trial court
14 shall then impose sentence upon the defendant. The trial court
15 may impose any sentence which could have been imposed at the
16 original trial subject to Section 5-5-4 of the Unified Code of
17 Corrections. If a sentence is vacated on appeal or on
18 collateral attack due to the failure of the trier of fact at
19 trial to determine beyond a reasonable doubt the existence of a
20 fact (other than a prior conviction) necessary to increase the
21 punishment for the offense beyond the statutory maximum
22 otherwise applicable, either the defendant may be re-sentenced
23 to a term within the range otherwise provided or, if the State
24 files notice of its intention to again seek the extended
25 sentence, the defendant shall be afforded a new trial.

26 (e) In cases where prosecution for aggravated criminal

1 sexual abuse under Section 12-16 of the Criminal Code of 1961
2 results in conviction of a defendant who was a family member of
3 the victim at the time of the commission of the offense, the
4 court shall consider the safety and welfare of the victim and
5 may impose a sentence of probation only where:

6 (1) the court finds (A) or (B) or both are appropriate:

7 (A) the defendant is willing to undergo a court
8 approved counseling program for a minimum duration of 2
9 years; or

10 (B) the defendant is willing to participate in a
11 court approved plan including but not limited to the
12 defendant's:

13 (i) removal from the household;

14 (ii) restricted contact with the victim;

15 (iii) continued financial support of the
16 family;

17 (iv) restitution for harm done to the victim;

18 and

19 (v) compliance with any other measures that
20 the court may deem appropriate; and

21 (2) the court orders the defendant to pay for the
22 victim's counseling services, to the extent that the court
23 finds, after considering the defendant's income and
24 assets, that the defendant is financially capable of paying
25 for such services, if the victim was under 18 years of age
26 at the time the offense was committed and requires

1 counseling as a result of the offense.

2 Probation may be revoked or modified pursuant to Section
3 5-6-4; except where the court determines at the hearing that
4 the defendant violated a condition of his or her probation
5 restricting contact with the victim or other family members or
6 commits another offense with the victim or other family
7 members, the court shall revoke the defendant's probation and
8 impose a term of imprisonment.

9 For the purposes of this Section, "family member" and
10 "victim" shall have the meanings ascribed to them in Section
11 12-12 of the Criminal Code of 1961.

12 (f) This Article shall not deprive a court in other
13 proceedings to order a forfeiture of property, to suspend or
14 cancel a license, to remove a person from office, or to impose
15 any other civil penalty.

16 (g) Whenever a defendant is convicted of an offense under
17 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
18 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
19 of the Criminal Code of 1961, the defendant shall undergo
20 medical testing to determine whether the defendant has any
21 sexually transmissible disease, including a test for infection
22 with human immunodeficiency virus (HIV) or any other identified
23 causative agent of acquired immunodeficiency syndrome (AIDS).
24 Any such medical test shall be performed only by appropriately
25 licensed medical practitioners and may include an analysis of
26 any bodily fluids as well as an examination of the defendant's

1 person. Except as otherwise provided by law, the results of
2 such test shall be kept strictly confidential by all medical
3 personnel involved in the testing and must be personally
4 delivered in a sealed envelope to the judge of the court in
5 which the conviction was entered for the judge's inspection in
6 camera. Acting in accordance with the best interests of the
7 victim and the public, the judge shall have the discretion to
8 determine to whom, if anyone, the results of the testing may be
9 revealed. The court shall notify the defendant of the test
10 results. The court shall also notify the victim if requested by
11 the victim, and if the victim is under the age of 15 and if
12 requested by the victim's parents or legal guardian, the court
13 shall notify the victim's parents or legal guardian of the test
14 results. The court shall provide information on the
15 availability of HIV testing and counseling at Department of
16 Public Health facilities to all parties to whom the results of
17 the testing are revealed and shall direct the State's Attorney
18 to provide the information to the victim when possible. A
19 State's Attorney may petition the court to obtain the results
20 of any HIV test administered under this Section, and the court
21 shall grant the disclosure if the State's Attorney shows it is
22 relevant in order to prosecute a charge of criminal
23 transmission of HIV under Section 12-16.2 of the Criminal Code
24 of 1961 against the defendant. The court shall order that the
25 cost of any such test shall be paid by the county and may be
26 taxed as costs against the convicted defendant.

1 (g-5) When an inmate is tested for an airborne communicable
2 disease, as determined by the Illinois Department of Public
3 Health including but not limited to tuberculosis, the results
4 of the test shall be personally delivered by the warden or his
5 or her designee in a sealed envelope to the judge of the court
6 in which the inmate must appear for the judge's inspection in
7 camera if requested by the judge. Acting in accordance with the
8 best interests of those in the courtroom, the judge shall have
9 the discretion to determine what if any precautions need to be
10 taken to prevent transmission of the disease in the courtroom.

11 (h) Whenever a defendant is convicted of an offense under
12 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
13 defendant shall undergo medical testing to determine whether
14 the defendant has been exposed to human immunodeficiency virus
15 (HIV) or any other identified causative agent of acquired
16 immunodeficiency syndrome (AIDS). Except as otherwise provided
17 by law, the results of such test shall be kept strictly
18 confidential by all medical personnel involved in the testing
19 and must be personally delivered in a sealed envelope to the
20 judge of the court in which the conviction was entered for the
21 judge's inspection in camera. Acting in accordance with the
22 best interests of the public, the judge shall have the
23 discretion to determine to whom, if anyone, the results of the
24 testing may be revealed. The court shall notify the defendant
25 of a positive test showing an infection with the human
26 immunodeficiency virus (HIV). The court shall provide

1 information on the availability of HIV testing and counseling
2 at Department of Public Health facilities to all parties to
3 whom the results of the testing are revealed and shall direct
4 the State's Attorney to provide the information to the victim
5 when possible. A State's Attorney may petition the court to
6 obtain the results of any HIV test administered under this
7 Section, and the court shall grant the disclosure if the
8 State's Attorney shows it is relevant in order to prosecute a
9 charge of criminal transmission of HIV under Section 12-16.2 of
10 the Criminal Code of 1961 against the defendant. The court
11 shall order that the cost of any such test shall be paid by the
12 county and may be taxed as costs against the convicted
13 defendant.

14 (i) All fines and penalties imposed under this Section for
15 any violation of Chapters 3, 4, 6, and 11 of the Illinois
16 Vehicle Code, or a similar provision of a local ordinance, and
17 any violation of the Child Passenger Protection Act, or a
18 similar provision of a local ordinance, shall be collected and
19 disbursed by the circuit clerk as provided under Section 27.5
20 of the Clerks of Courts Act.

21 (j) In cases when prosecution for any violation of Section
22 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
23 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
24 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
25 Code of 1961, any violation of the Illinois Controlled
26 Substances Act, any violation of the Cannabis Control Act, or

1 any violation of the Methamphetamine Control and Community
2 Protection Act results in conviction, a disposition of court
3 supervision, or an order of probation granted under Section 10
4 of the Cannabis Control Act, Section 410 of the Illinois
5 Controlled Substance Act, or Section 70 of the Methamphetamine
6 Control and Community Protection Act of a defendant, the court
7 shall determine whether the defendant is employed by a facility
8 or center as defined under the Child Care Act of 1969, a public
9 or private elementary or secondary school, or otherwise works
10 with children under 18 years of age on a daily basis. When a
11 defendant is so employed, the court shall order the Clerk of
12 the Court to send a copy of the judgment of conviction or order
13 of supervision or probation to the defendant's employer by
14 certified mail. If the employer of the defendant is a school,
15 the Clerk of the Court shall direct the mailing of a copy of
16 the judgment of conviction or order of supervision or probation
17 to the appropriate regional superintendent of schools. The
18 regional superintendent of schools shall notify the State Board
19 of Education of any notification under this subsection.

20 (j-5) A defendant at least 17 years of age who is convicted
21 of a felony and who has not been previously convicted of a
22 misdemeanor or felony and who is sentenced to a term of
23 imprisonment in the Illinois Department of Corrections shall as
24 a condition of his or her sentence be required by the court to
25 attend educational courses designed to prepare the defendant
26 for a high school diploma and to work toward a high school

1 diploma or to work toward passing the high school level Test of
2 General Educational Development (GED) or to work toward
3 completing a vocational training program offered by the
4 Department of Corrections. The costs of the educational courses
5 shall be paid by the Department. If a defendant fails to
6 complete the educational training required by his or her
7 sentence during the term of incarceration, the Prisoner Review
8 Board shall, as a condition of mandatory supervised release,
9 require the defendant, ~~at his or her own expense,~~ to pursue a
10 course of study toward a high school diploma or passage of the
11 GED test. The costs of the educational courses shall be paid by
12 the Department. The Prisoner Review Board shall revoke the
13 mandatory supervised release of a defendant who wilfully fails
14 to comply with this subsection (j-5) upon his or her release
15 from confinement in a penal institution while serving a
16 mandatory supervised release term; ~~however, the inability of~~
17 ~~the defendant after making a good faith effort to obtain~~
18 ~~financial aid or pay for the educational training shall not be~~
19 ~~deemed a wilful failure to comply.~~ The Prisoner Review Board
20 shall recommit the defendant whose mandatory supervised
21 release term has been revoked under this subsection (j-5) as
22 provided in Section 3-3-9. This subsection (j-5) does not apply
23 to a defendant who has a high school diploma or has
24 successfully passed the GED test. This subsection (j-5) does
25 not apply to a defendant who is determined by the court to be
26 developmentally disabled or otherwise mentally incapable of

1 completing the educational or vocational program.

2 (k) A court may not impose a sentence or disposition for a
3 felony or misdemeanor that requires the defendant to be
4 implanted or injected with or to use any form of birth control.

5 (l) (A) Except as provided in paragraph (C) of subsection
6 (l), whenever a defendant, who is an alien as defined by
7 the Immigration and Nationality Act, is convicted of any
8 felony or misdemeanor offense, the court after sentencing
9 the defendant may, upon motion of the State's Attorney,
10 hold sentence in abeyance and remand the defendant to the
11 custody of the Attorney General of the United States or his
12 or her designated agent to be deported when:

13 (1) a final order of deportation has been issued
14 against the defendant pursuant to proceedings under
15 the Immigration and Nationality Act, and

16 (2) the deportation of the defendant would not
17 deprecate the seriousness of the defendant's conduct
18 and would not be inconsistent with the ends of justice.

19 Otherwise, the defendant shall be sentenced as
20 provided in this Chapter V.

21 (B) If the defendant has already been sentenced for a
22 felony or misdemeanor offense, or has been placed on
23 probation under Section 10 of the Cannabis Control Act,
24 Section 410 of the Illinois Controlled Substances Act, or
25 Section 70 of the Methamphetamine Control and Community
26 Protection Act, the court may, upon motion of the State's

1 Attorney to suspend the sentence imposed, commit the
2 defendant to the custody of the Attorney General of the
3 United States or his or her designated agent when:

4 (1) a final order of deportation has been issued
5 against the defendant pursuant to proceedings under
6 the Immigration and Nationality Act, and

7 (2) the deportation of the defendant would not
8 deprecate the seriousness of the defendant's conduct
9 and would not be inconsistent with the ends of justice.

10 (C) This subsection (1) does not apply to offenders who
11 are subject to the provisions of paragraph (2) of
12 subsection (a) of Section 3-6-3.

13 (D) Upon motion of the State's Attorney, if a defendant
14 sentenced under this Section returns to the jurisdiction of
15 the United States, the defendant shall be recommitted to
16 the custody of the county from which he or she was
17 sentenced. Thereafter, the defendant shall be brought
18 before the sentencing court, which may impose any sentence
19 that was available under Section 5-5-3 at the time of
20 initial sentencing. In addition, the defendant shall not be
21 eligible for additional good conduct credit for
22 meritorious service as provided under Section 3-6-6.

23 (m) A person convicted of criminal defacement of property
24 under Section 21-1.3 of the Criminal Code of 1961, in which the
25 property damage exceeds \$300 and the property damaged is a
26 school building, shall be ordered to perform community service

1 that may include cleanup, removal, or painting over the
2 defacement.

3 (n) The court may sentence a person convicted of a
4 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
5 Code of 1961 (i) to an impact incarceration program if the
6 person is otherwise eligible for that program under Section
7 5-8-1.1, (ii) to community service, or (iii) if the person is
8 an addict or alcoholic, as defined in the Alcoholism and Other
9 Drug Abuse and Dependency Act, to a substance or alcohol abuse
10 program licensed under that Act.

11 (o) Whenever a person is convicted of a sex offense as
12 defined in Section 2 of the Sex Offender Registration Act, the
13 defendant's driver's license or permit shall be subject to
14 renewal on an annual basis in accordance with the provisions of
15 license renewal established by the Secretary of State.

16 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
17 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
18 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
19 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
20 eff. 9-11-05; 94-993, eff. 1-1-07.)

21 (Text of Section after amendment by P.A. 94-1035)

22 Sec. 5-5-3. Disposition.

23 (a) Except as provided in Section 11-501 of the Illinois
24 Vehicle Code, every person convicted of an offense shall be
25 sentenced as provided in this Section.

1 (b) The following options shall be appropriate
2 dispositions, alone or in combination, for all felonies and
3 misdemeanors other than those identified in subsection (c) of
4 this Section:

5 (1) A period of probation.

6 (2) A term of periodic imprisonment.

7 (3) A term of conditional discharge.

8 (4) A term of imprisonment.

9 (5) An order directing the offender to clean up and
10 repair the damage, if the offender was convicted under
11 paragraph (h) of Section 21-1 of the Criminal Code of 1961
12 (now repealed).

13 (6) A fine.

14 (7) An order directing the offender to make restitution
15 to the victim under Section 5-5-6 of this Code.

16 (8) A sentence of participation in a county impact
17 incarceration program under Section 5-8-1.2 of this Code.

18 (9) A term of imprisonment in combination with a term
19 of probation when the offender has been admitted into a
20 drug court program under Section 20 of the Drug Court
21 Treatment Act.

22 Neither a fine nor restitution shall be the sole
23 disposition for a felony and either or both may be imposed only
24 in conjunction with another disposition.

25 (c) (1) When a defendant is found guilty of first degree
26 murder the State may either seek a sentence of imprisonment

1 under Section 5-8-1 of this Code, or where appropriate seek
2 a sentence of death under Section 9-1 of the Criminal Code
3 of 1961.

4 (2) A period of probation, a term of periodic
5 imprisonment or conditional discharge shall not be imposed
6 for the following offenses. The court shall sentence the
7 offender to not less than the minimum term of imprisonment
8 set forth in this Code for the following offenses, and may
9 order a fine or restitution or both in conjunction with
10 such term of imprisonment:

11 (A) First degree murder where the death penalty is
12 not imposed.

13 (B) Attempted first degree murder.

14 (C) A Class X felony.

15 (D) A violation of Section 401.1 or 407 of the
16 Illinois Controlled Substances Act, or a violation of
17 subdivision (c) (1) or (c) (2) of Section 401 of that Act
18 which relates to more than 5 grams of a substance
19 containing heroin or cocaine or an analog thereof.

20 (E) A violation of Section 5.1 or 9 of the Cannabis
21 Control Act.

22 (F) A Class 2 or greater felony if the offender had
23 been convicted of a Class 2 or greater felony within 10
24 years of the date on which the offender committed the
25 offense for which he or she is being sentenced, except
26 as otherwise provided in Section 40-10 of the

1 Alcoholism and Other Drug Abuse and Dependency Act.

2 (F-5) A violation of Section 24-1, 24-1.1, or
3 24-1.6 of the Criminal Code of 1961 for which
4 imprisonment is prescribed in those Sections.

5 (G) Residential burglary, except as otherwise
6 provided in Section 40-10 of the Alcoholism and Other
7 Drug Abuse and Dependency Act.

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen.

10 (J) A forcible felony if the offense was related to
11 the activities of an organized gang.

12 Before July 1, 1994, for the purposes of this
13 paragraph, "organized gang" means an association of 5
14 or more persons, with an established hierarchy, that
15 encourages members of the association to perpetrate
16 crimes or provides support to the members of the
17 association who do commit crimes.

18 Beginning July 1, 1994, for the purposes of this
19 paragraph, "organized gang" has the meaning ascribed
20 to it in Section 10 of the Illinois Streetgang
21 Terrorism Omnibus Prevention Act.

22 (K) Vehicular hijacking.

23 (L) A second or subsequent conviction for the
24 offense of hate crime when the underlying offense upon
25 which the hate crime is based is felony aggravated
26 assault or felony mob action.

1 (M) A second or subsequent conviction for the
2 offense of institutional vandalism if the damage to the
3 property exceeds \$300.

4 (N) A Class 3 felony violation of paragraph (1) of
5 subsection (a) of Section 2 of the Firearm Owners
6 Identification Card Act.

7 (O) A violation of Section 12-6.1 of the Criminal
8 Code of 1961.

9 (P) A violation of paragraph (1), (2), (3), (4),
10 (5), or (7) of subsection (a) of Section 11-20.1 of the
11 Criminal Code of 1961.

12 (Q) A violation of Section 20-1.2 or 20-1.3 of the
13 Criminal Code of 1961.

14 (R) A violation of Section 24-3A of the Criminal
15 Code of 1961.

16 (S) (Blank).

17 (T) A second or subsequent violation of the
18 Methamphetamine Control and Community Protection Act.

19 (3) (Blank).

20 (4) A minimum term of imprisonment of not less than 10
21 consecutive days or 30 days of community service shall be
22 imposed for a violation of paragraph (c) of Section 6-303
23 of the Illinois Vehicle Code.

24 (4.1) (Blank).

25 (4.2) Except as provided in paragraph (4.3) of this
26 subsection (c), a minimum of 100 hours of community service

1 shall be imposed for a second violation of Section 6-303 of
2 the Illinois Vehicle Code.

3 (4.3) A minimum term of imprisonment of 30 days or 300
4 hours of community service, as determined by the court,
5 shall be imposed for a second violation of subsection (c)
6 of Section 6-303 of the Illinois Vehicle Code.

7 (4.4) Except as provided in paragraph (4.5) and
8 paragraph (4.6) of this subsection (c), a minimum term of
9 imprisonment of 30 days or 300 hours of community service,
10 as determined by the court, shall be imposed for a third or
11 subsequent violation of Section 6-303 of the Illinois
12 Vehicle Code.

13 (4.5) A minimum term of imprisonment of 30 days shall
14 be imposed for a third violation of subsection (c) of
15 Section 6-303 of the Illinois Vehicle Code.

16 (4.6) A minimum term of imprisonment of 180 days shall
17 be imposed for a fourth or subsequent violation of
18 subsection (c) of Section 6-303 of the Illinois Vehicle
19 Code.

20 (5) The court may sentence an offender convicted of a
21 business offense or a petty offense or a corporation or
22 unincorporated association convicted of any offense to:

23 (A) a period of conditional discharge;

24 (B) a fine;

25 (C) make restitution to the victim under Section
26 5-5-6 of this Code.

1 (5.1) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.2) or (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 90 days but
7 not more than one year, if the violation resulted in damage
8 to the property of another person.

9 (5.2) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), and except as
11 provided in paragraph (5.3), a person convicted of
12 violating subsection (c) of Section 11-907 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for at least 180 days but
15 not more than 2 years, if the violation resulted in injury
16 to another person.

17 (5.3) In addition to any penalties imposed under
18 paragraph (5) of this subsection (c), a person convicted of
19 violating subsection (c) of Section 11-907 of the Illinois
20 Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for 2 years, if the
22 violation resulted in the death of another person.

23 (5.4) In addition to any penalties imposed under
24 paragraph (5) of this subsection (c), a person convicted of
25 violating Section 3-707 of the Illinois Vehicle Code shall
26 have his or her driver's license, permit, or privileges

1 suspended for 3 months and until he or she has paid a
2 reinstatement fee of \$100.

3 (5.5) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), a person convicted of
5 violating Section 3-707 of the Illinois Vehicle Code during
6 a period in which his or her driver's license, permit, or
7 privileges were suspended for a previous violation of that
8 Section shall have his or her driver's license, permit, or
9 privileges suspended for an additional 6 months after the
10 expiration of the original 3-month suspension and until he
11 or she has paid a reinstatement fee of \$100.

12 (6) In no case shall an offender be eligible for a
13 disposition of probation or conditional discharge for a
14 Class 1 felony committed while he was serving a term of
15 probation or conditional discharge for a felony.

16 (7) When a defendant is adjudged a habitual criminal
17 under Article 33B of the Criminal Code of 1961, the court
18 shall sentence the defendant to a term of natural life
19 imprisonment.

20 (8) When a defendant, over the age of 21 years, is
21 convicted of a Class 1 or Class 2 felony, after having
22 twice been convicted in any state or federal court of an
23 offense that contains the same elements as an offense now
24 classified in Illinois as a Class 2 or greater Class felony
25 and such charges are separately brought and tried and arise
26 out of different series of acts, such defendant shall be

1 sentenced as a Class X offender. This paragraph shall not
2 apply unless (1) the first felony was committed after the
3 effective date of this amendatory Act of 1977; and (2) the
4 second felony was committed after conviction on the first;
5 and (3) the third felony was committed after conviction on
6 the second. A person sentenced as a Class X offender under
7 this paragraph is not eligible to apply for treatment as a
8 condition of probation as provided by Section 40-10 of the
9 Alcoholism and Other Drug Abuse and Dependency Act.

10 (9) A defendant convicted of a second or subsequent
11 offense of ritualized abuse of a child may be sentenced to
12 a term of natural life imprisonment.

13 (10) (Blank).

14 (11) The court shall impose a minimum fine of \$1,000
15 for a first offense and \$2,000 for a second or subsequent
16 offense upon a person convicted of or placed on supervision
17 for battery when the individual harmed was a sports
18 official or coach at any level of competition and the act
19 causing harm to the sports official or coach occurred
20 within an athletic facility or within the immediate
21 vicinity of the athletic facility at which the sports
22 official or coach was an active participant of the athletic
23 contest held at the athletic facility. For the purposes of
24 this paragraph (11), "sports official" means a person at an
25 athletic contest who enforces the rules of the contest,
26 such as an umpire or referee; "athletic facility" means an

1 indoor or outdoor playing field or recreational area where
2 sports activities are conducted; and "coach" means a person
3 recognized as a coach by the sanctioning authority that
4 conducted the sporting event.

5 (12) A person may not receive a disposition of court
6 supervision for a violation of Section 5-16 of the Boat
7 Registration and Safety Act if that person has previously
8 received a disposition of court supervision for a violation
9 of that Section.

10 (d) In any case in which a sentence originally imposed is
11 vacated, the case shall be remanded to the trial court. The
12 trial court shall hold a hearing under Section 5-4-1 of the
13 Unified Code of Corrections which may include evidence of the
14 defendant's life, moral character and occupation during the
15 time since the original sentence was passed. The trial court
16 shall then impose sentence upon the defendant. The trial court
17 may impose any sentence which could have been imposed at the
18 original trial subject to Section 5-5-4 of the Unified Code of
19 Corrections. If a sentence is vacated on appeal or on
20 collateral attack due to the failure of the trier of fact at
21 trial to determine beyond a reasonable doubt the existence of a
22 fact (other than a prior conviction) necessary to increase the
23 punishment for the offense beyond the statutory maximum
24 otherwise applicable, either the defendant may be re-sentenced
25 to a term within the range otherwise provided or, if the State
26 files notice of its intention to again seek the extended

1 sentence, the defendant shall be afforded a new trial.

2 (e) In cases where prosecution for aggravated criminal
3 sexual abuse under Section 12-16 of the Criminal Code of 1961
4 results in conviction of a defendant who was a family member of
5 the victim at the time of the commission of the offense, the
6 court shall consider the safety and welfare of the victim and
7 may impose a sentence of probation only where:

8 (1) the court finds (A) or (B) or both are appropriate:

9 (A) the defendant is willing to undergo a court
10 approved counseling program for a minimum duration of 2
11 years; or

12 (B) the defendant is willing to participate in a
13 court approved plan including but not limited to the
14 defendant's:

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the
18 family;

19 (iv) restitution for harm done to the victim;

20 and

21 (v) compliance with any other measures that
22 the court may deem appropriate; and

23 (2) the court orders the defendant to pay for the
24 victim's counseling services, to the extent that the court
25 finds, after considering the defendant's income and
26 assets, that the defendant is financially capable of paying

1 for such services, if the victim was under 18 years of age
2 at the time the offense was committed and requires
3 counseling as a result of the offense.

4 Probation may be revoked or modified pursuant to Section
5 5-6-4; except where the court determines at the hearing that
6 the defendant violated a condition of his or her probation
7 restricting contact with the victim or other family members or
8 commits another offense with the victim or other family
9 members, the court shall revoke the defendant's probation and
10 impose a term of imprisonment.

11 For the purposes of this Section, "family member" and
12 "victim" shall have the meanings ascribed to them in Section
13 12-12 of the Criminal Code of 1961.

14 (f) This Article shall not deprive a court in other
15 proceedings to order a forfeiture of property, to suspend or
16 cancel a license, to remove a person from office, or to impose
17 any other civil penalty.

18 (g) Whenever a defendant is convicted of an offense under
19 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
20 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
21 of the Criminal Code of 1961, the defendant shall undergo
22 medical testing to determine whether the defendant has any
23 sexually transmissible disease, including a test for infection
24 with human immunodeficiency virus (HIV) or any other identified
25 causative agent of acquired immunodeficiency syndrome (AIDS).
26 Any such medical test shall be performed only by appropriately

1 licensed medical practitioners and may include an analysis of
2 any bodily fluids as well as an examination of the defendant's
3 person. Except as otherwise provided by law, the results of
4 such test shall be kept strictly confidential by all medical
5 personnel involved in the testing and must be personally
6 delivered in a sealed envelope to the judge of the court in
7 which the conviction was entered for the judge's inspection in
8 camera. Acting in accordance with the best interests of the
9 victim and the public, the judge shall have the discretion to
10 determine to whom, if anyone, the results of the testing may be
11 revealed. The court shall notify the defendant of the test
12 results. The court shall also notify the victim if requested by
13 the victim, and if the victim is under the age of 15 and if
14 requested by the victim's parents or legal guardian, the court
15 shall notify the victim's parents or legal guardian of the test
16 results. The court shall provide information on the
17 availability of HIV testing and counseling at Department of
18 Public Health facilities to all parties to whom the results of
19 the testing are revealed and shall direct the State's Attorney
20 to provide the information to the victim when possible. A
21 State's Attorney may petition the court to obtain the results
22 of any HIV test administered under this Section, and the court
23 shall grant the disclosure if the State's Attorney shows it is
24 relevant in order to prosecute a charge of criminal
25 transmission of HIV under Section 12-16.2 of the Criminal Code
26 of 1961 against the defendant. The court shall order that the

1 cost of any such test shall be paid by the county and may be
2 taxed as costs against the convicted defendant.

3 (g-5) When an inmate is tested for an airborne communicable
4 disease, as determined by the Illinois Department of Public
5 Health including but not limited to tuberculosis, the results
6 of the test shall be personally delivered by the warden or his
7 or her designee in a sealed envelope to the judge of the court
8 in which the inmate must appear for the judge's inspection in
9 camera if requested by the judge. Acting in accordance with the
10 best interests of those in the courtroom, the judge shall have
11 the discretion to determine what if any precautions need to be
12 taken to prevent transmission of the disease in the courtroom.

13 (h) Whenever a defendant is convicted of an offense under
14 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
15 defendant shall undergo medical testing to determine whether
16 the defendant has been exposed to human immunodeficiency virus
17 (HIV) or any other identified causative agent of acquired
18 immunodeficiency syndrome (AIDS). Except as otherwise provided
19 by law, the results of such test shall be kept strictly
20 confidential by all medical personnel involved in the testing
21 and must be personally delivered in a sealed envelope to the
22 judge of the court in which the conviction was entered for the
23 judge's inspection in camera. Acting in accordance with the
24 best interests of the public, the judge shall have the
25 discretion to determine to whom, if anyone, the results of the
26 testing may be revealed. The court shall notify the defendant

1 of a positive test showing an infection with the human
2 immunodeficiency virus (HIV). The court shall provide
3 information on the availability of HIV testing and counseling
4 at Department of Public Health facilities to all parties to
5 whom the results of the testing are revealed and shall direct
6 the State's Attorney to provide the information to the victim
7 when possible. A State's Attorney may petition the court to
8 obtain the results of any HIV test administered under this
9 Section, and the court shall grant the disclosure if the
10 State's Attorney shows it is relevant in order to prosecute a
11 charge of criminal transmission of HIV under Section 12-16.2 of
12 the Criminal Code of 1961 against the defendant. The court
13 shall order that the cost of any such test shall be paid by the
14 county and may be taxed as costs against the convicted
15 defendant.

16 (i) All fines and penalties imposed under this Section for
17 any violation of Chapters 3, 4, 6, and 11 of the Illinois
18 Vehicle Code, or a similar provision of a local ordinance, and
19 any violation of the Child Passenger Protection Act, or a
20 similar provision of a local ordinance, shall be collected and
21 disbursed by the circuit clerk as provided under Section 27.5
22 of the Clerks of Courts Act.

23 (j) In cases when prosecution for any violation of Section
24 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
25 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
26 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal

1 Code of 1961, any violation of the Illinois Controlled
2 Substances Act, any violation of the Cannabis Control Act, or
3 any violation of the Methamphetamine Control and Community
4 Protection Act results in conviction, a disposition of court
5 supervision, or an order of probation granted under Section 10
6 of the Cannabis Control Act, Section 410 of the Illinois
7 Controlled Substance Act, or Section 70 of the Methamphetamine
8 Control and Community Protection Act of a defendant, the court
9 shall determine whether the defendant is employed by a facility
10 or center as defined under the Child Care Act of 1969, a public
11 or private elementary or secondary school, or otherwise works
12 with children under 18 years of age on a daily basis. When a
13 defendant is so employed, the court shall order the Clerk of
14 the Court to send a copy of the judgment of conviction or order
15 of supervision or probation to the defendant's employer by
16 certified mail. If the employer of the defendant is a school,
17 the Clerk of the Court shall direct the mailing of a copy of
18 the judgment of conviction or order of supervision or probation
19 to the appropriate regional superintendent of schools. The
20 regional superintendent of schools shall notify the State Board
21 of Education of any notification under this subsection.

22 (j-5) A defendant at least 17 years of age who is convicted
23 of a felony and who has not been previously convicted of a
24 misdemeanor or felony and who is sentenced to a term of
25 imprisonment in the Illinois Department of Corrections shall as
26 a condition of his or her sentence be required by the court to

1 attend educational courses designed to prepare the defendant
2 for a high school diploma and to work toward a high school
3 diploma or to work toward passing the high school level Test of
4 General Educational Development (GED) or to work toward
5 completing a vocational training program offered by the
6 Department of Corrections. The costs of the educational courses
7 shall be paid by the Department. If a defendant fails to
8 complete the educational training required by his or her
9 sentence during the term of incarceration, the Prisoner Review
10 Board shall, as a condition of mandatory supervised release,
11 require the defendant ~~, at his or her own expense,~~ to pursue a
12 course of study toward a high school diploma or passage of the
13 GED test. The costs of the educational courses shall be paid by
14 the Department. The Prisoner Review Board shall revoke the
15 mandatory supervised release of a defendant who wilfully fails
16 to comply with this subsection (j-5) upon his or her release
17 from confinement in a penal institution while serving a
18 mandatory supervised release term; ~~however, the inability of~~
19 ~~the defendant after making a good faith effort to obtain~~
20 ~~financial aid or pay for the educational training shall not be~~
21 ~~deemed a wilful failure to comply.~~ The Prisoner Review Board
22 shall recommit the defendant whose mandatory supervised
23 release term has been revoked under this subsection (j-5) as
24 provided in Section 3-3-9. This subsection (j-5) does not apply
25 to a defendant who has a high school diploma or has
26 successfully passed the GED test. This subsection (j-5) does

1 not apply to a defendant who is determined by the court to be
2 developmentally disabled or otherwise mentally incapable of
3 completing the educational or vocational program.

4 (k) A court may not impose a sentence or disposition for a
5 felony or misdemeanor that requires the defendant to be
6 implanted or injected with or to use any form of birth control.

7 (l) (A) Except as provided in paragraph (C) of subsection
8 (l), whenever a defendant, who is an alien as defined by
9 the Immigration and Nationality Act, is convicted of any
10 felony or misdemeanor offense, the court after sentencing
11 the defendant may, upon motion of the State's Attorney,
12 hold sentence in abeyance and remand the defendant to the
13 custody of the Attorney General of the United States or his
14 or her designated agent to be deported when:

15 (1) a final order of deportation has been issued
16 against the defendant pursuant to proceedings under
17 the Immigration and Nationality Act, and

18 (2) the deportation of the defendant would not
19 deprecate the seriousness of the defendant's conduct
20 and would not be inconsistent with the ends of justice.

21 Otherwise, the defendant shall be sentenced as
22 provided in this Chapter V.

23 (B) If the defendant has already been sentenced for a
24 felony or misdemeanor offense, or has been placed on
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act, or

1 Section 70 of the Methamphetamine Control and Community
2 Protection Act, the court may, upon motion of the State's
3 Attorney to suspend the sentence imposed, commit the
4 defendant to the custody of the Attorney General of the
5 United States or his or her designated agent when:

6 (1) a final order of deportation has been issued
7 against the defendant pursuant to proceedings under
8 the Immigration and Nationality Act, and

9 (2) the deportation of the defendant would not
10 deprecate the seriousness of the defendant's conduct
11 and would not be inconsistent with the ends of justice.

12 (C) This subsection (1) does not apply to offenders who
13 are subject to the provisions of paragraph (2) of
14 subsection (a) of Section 3-6-3.

15 (D) Upon motion of the State's Attorney, if a defendant
16 sentenced under this Section returns to the jurisdiction of
17 the United States, the defendant shall be recommitted to
18 the custody of the county from which he or she was
19 sentenced. Thereafter, the defendant shall be brought
20 before the sentencing court, which may impose any sentence
21 that was available under Section 5-5-3 at the time of
22 initial sentencing. In addition, the defendant shall not be
23 eligible for additional good conduct credit for
24 meritorious service as provided under Section 3-6-6.

25 (m) A person convicted of criminal defacement of property
26 under Section 21-1.3 of the Criminal Code of 1961, in which the

1 property damage exceeds \$300 and the property damaged is a
2 school building, shall be ordered to perform community service
3 that may include cleanup, removal, or painting over the
4 defacement.

5 (n) The court may sentence a person convicted of a
6 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
7 Code of 1961 (i) to an impact incarceration program if the
8 person is otherwise eligible for that program under Section
9 5-8-1.1, (ii) to community service, or (iii) if the person is
10 an addict or alcoholic, as defined in the Alcoholism and Other
11 Drug Abuse and Dependency Act, to a substance or alcohol abuse
12 program licensed under that Act.

13 (o) Whenever a person is convicted of a sex offense as
14 defined in Section 2 of the Sex Offender Registration Act, the
15 defendant's driver's license or permit shall be subject to
16 renewal on an annual basis in accordance with the provisions of
17 license renewal established by the Secretary of State.

18 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
19 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
20 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
21 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
22 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;
23 revised 8-28-06.)

24 Section 95. No acceleration or delay. Where this Act makes
25 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section
2 represented by multiple versions), the use of that text does
3 not accelerate or delay the taking effect of (i) the changes
4 made by this Act or (ii) provisions derived from any other
5 Public Act.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.

1

INDEX

2

Statutes amended in order of appearance

3

New Act

4

730 ILCS 5/3-6-2

from Ch. 38, par. 1003-6-2

5

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3